

United States District Court  
Southern District of Texas  
FILED

## United States District Court

SOUTHERN

DISTRICT OF

TEXAS

SEP 22 2014

McALLEN DIVISION

UNITED STATES OF AMERICA

David J. Bradley, Clerk

V.

## AMENDED CRIMINAL COMPLAINT

Diego Emilio Ortiz

A202 120 603

YOB: 1995

Principal

United States

Eric Omar Gutierrez

A202 120 604

YOB: 1992

Co-Principal

United States

M-14-1848-M

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about September 18, 2014 in Starr County, in the Southern District of Texas defendants(s) did,  
(Track Statutory Language of Offense)

**knowing or in reckless disregard of the fact that Carlos Martinez-Perez and Octavio Perez-Navarrete, citizens and nationals of the United Mexican States and eighteen (18) other undocumented aliens for a total of twenty (20), who had entered the United States in violation of law, did knowingly transport, or move or attempt to transport said aliens in furtherance of such violation of law within the United States, that is, from a location near Rio Grande City, Texas to the point of arrest near Rio Grande City, Texas.**

in violation of Title 8 United States Code, Section(s) 1324(a)(1)(A)(ii) FELONY

I further state that I am a(n) U.S. Senior Border Patrol Agent and that this complaint is based on the following facts:

On Thursday, September 18, 2014, Rio Grande City Border Patrol Agents H. Martinez and J. Gonzalez were conducting line-watch duties in Rio Grande City, Texas in an unmarked service vehicle. At approximately 8:45 p.m. Agents observed a red Chevrolet Camaro, driving in an area that is heavily used for alien smuggling. Agents recognized the red Chevy Camaro from a prior Alien Smuggling Case and identified it as a scout vehicle. Agents Gonzalez and Martinez followed the red Camaro to North Washington Street and Highway 83, when the vehicle parked in front of what appeared to be an abandoned building. The location where the vehicle parked is approximately one block north of a wooded area that leads to the Rio Grande River that is commonly used as an entry point for illegal aliens due to its easy access to major roads and neighborhoods. The Agents observed one male subject in the Camaro talking on a mobile phone. Agents believed the vehicle was conducting scouting activities because the driver had a clear view to the Police Station and to the streets commonly patrolled by Border Patrol Agents.

After approximately forty-five minutes, the Agents heard via radio other Border Patrol Agents working in the brush south of the Camaro's location. The Agents were following a large group of suspected illegal aliens.

Continued on the attached sheet and made a part of this complaint ☒ Yes ☐ No

[Signature]  
Signature of Complainant

Sean Enszer  
Howard Gessler Senior Patrol Agent  
Printed Name of Complainant

Sworn to before me and subscribed in my presence,

September 20, 2014  
Date

at McAllen, Texas  
City and State

Peter E. Ormsby, U. S. Magistrate Judge  
Name and Title of Judicial Officer

[Signature]  
Signature of Judicial Officer

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
McALLEN, TEXAS**

**ATTACHMENT TO CRIMINAL COMPLAINT:**

**M-14-1848-M**

**RE:       Diego Emilio Ortiz  
          Eric Omar Gutierrez**

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At the same time, the Camaro drove to Mirasoles Street, the last street that parallels the brush leading to the river. Agent Gonzalez and Martinez followed the Camaro and observed it pass an area known to agents as the Corpus Christi Gate. The Corpus Christi Gate is the most southern point of Corpus Christi Street; the Rio Grande River is approximately 300 yards south of the gate. The agents working in the brush continued following the group and advised that the group was heading in the direction of the Corpus Christi Gate. Agents Gonzalez and Martinez relocated to get a better view and observed a maroon Ford F-150 driving towards the location. Agent Gonzalez and Martinez also recognized the maroon Ford. The Agents had assisted the Rio Grande City Police Department on a vehicle stop on August 28, 2014. Eric Omar Gutierrez was driving the same maroon Ford F-150 with an expired registration.

As the red Camaro and the maroon Ford approached the Corpus Christi Gate, ground agents following the group advised they observed subjects jumping the Corpus Christi Gate. The agents also saw a pick-up truck stopping at the gate. As agent Agents Gonzalez and Martinez turned south towards the Corpus Christi Gate, they observed numerous subjects jumping into the bed of the maroon Ford and saw the red Camaro attempting to drive away from the maroon Ford's location. Responding mobile and ground agents converged on both vehicles and detained all subjects. The occupants of the red Camaro were identified as Diego Emilio Ortiz, the driver, and Eric Omar Gutierrez, the passenger both claimed to be United States Citizens. In the maroon Ford, agents found four subjects inside the cab of the truck, fourteen subjects inside the bed of the truck and two subjects outside the truck. All 20 subjects were questioned as to their citizenship and all admitted to being in the United States illegally with no documents to allow them to remain in the country legally.

All subjects to include ORTIZ and GUTIERREZ were transported to the Rio Grande City Border Patrol Station for further questioning and processing.

**1-PRINCIPAL'S STATEMENT**

At the Border Patrol Station, Diego Emilio ORTIZ was read his Miranda Rights by Border Patrol Agents. ORTIZ understood his rights and gave a statement.

ORTIZ stated he was driving the red Camaro, and was scouting for GUTIERREZ. GUTIERREZ arranges to have the illegal aliens taken from the gate to a brush area on Church Lane and that GUTIERREZ pays him \$300.00 to \$500.00 for every group they take to Church Lane. ORTIZ stated that GUTIERREZ was driving the maroon Ford truck, and that he dropped off the truck by the gate for the aliens to get inside. GUTIERREZ had made arrangements for one of the aliens to drive the truck and follow them to Church Lane. ORTIZ also stated that GUTIERREZ got in his vehicle right as Border Patrol arrived at the scene.

**2-PRINCIPAL'S STATEMENT**

At the Border Patrol Station, Eric Omar GUTIERREZ was read his Miranda Rights by Border Patrol Agents. GUTIERREZ understood his rights and agreed to give a statement.

GUTIERREZ denied any involvement with alien smuggling and denied the maroon Ford was his vehicle. Agents terminated the interview at that time.

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**MATERIAL WITNESSES STATEMENTS:**

Once at the Border Patrol Station, both of the material witnesses were advised of their Miranda Rights. Both stated that they understood their rights and were willing to provide a statement without the presence of an attorney.

1-Carlos MARTINEZ-Perez stated that he was going to pay \$6,500 in smuggling fees to get smuggled into the United States. MARTINEZ stated he spent 18 days in Miguel Aleman and after several failed attempts to cross the river they moved them to Camargo, according to the guides it was going to be easier. On September 18, 2014, they were smuggled into the United States. When they crossed the river the raft ripped and several people fell in the water. Once at the riverbank, the guides gave them instructions as to what was going to happen. The guides instructed them that a maroon pickup truck was going to be waiting for them by the gate and that "Remendado" a foot guide, was going to be their driver. He was also given a cell phone and someone was going to call him and give him further instructions. They then walked for about eight minutes before arriving at the gate. They all jumped the gate on got into an on waiting pick-up truck. Border Patrol arrived shortly after.

2-Octavio Perez-Navarrete stated that he paid smugglers in Miguel Aleman \$1,400 to get smuggled into the United States. On September 18, 2014, his group was smuggled into the United States. Once in the U.S. riverbank, the guides instructed them that a red pickup truck was going to be waiting for them at the gate. He instructed them that the thinner ones were to sit inside the cabin and all others were to lay in the bed of the truck. After they received the instructions, they then walked until they reached a gate and they all got into the vehicle as instructed. Border Patrol arrived shortly after and apprehended everyone.